

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF MISSISSIPPI
JACKSON DIVISION

UNITED STATES OF AMERICA

PETITIONER

v.

CIVIL ACTION NO. 3:10-CV-696 WHB LRA

LEIGH B. ALLEN, IV

RESPONDENT

REPORT AND RECOMMENDATION

This matter is before the Court on the Petition to Enforce Internal Revenue Service Summons filed on November 30, 2010, by the United States of America on behalf of its agency, Internal Revenue Service (IRS), pursuant to the provisions of I.R.C. §§ 7602 and 7604(a). In this petition, the IRS is seeking compliance with its Summons served upon the Respondent on August 2, 2010. On February 9, 2011, the Court entered an Order to Show Cause which required the Respondent to appear before the Court at the United States Courthouse in Jackson, Mississippi, on March 17, 2011, at 2:00 p.m. to show cause why he should not be compelled to comply with the IRS Summons. The Order to Show Cause and a copy of the Petition and Exhibits were served on the Respondent on February 19, 2011 and December 27, 2010, respectively. The Respondent failed to respond to the Petition.

On March 17, 2011, a hearing was held on the Order to Show Cause. Present at the hearing were Angela Givens Williams, Assistant United States Attorney, counsel for the Petitioner, and Kimberli Newcomb, Revenue Officer, Internal Revenue Service. The Respondent failed to appear at the hearing. Based upon the evidence presented at the hearing and in the pleadings, the Court found that the Summons meets the standards required by United States v. Powell, 379 U.S. 48, 57-58 (1964): The investigation is being conducted pursuant to a

legitimate purpose; the inquiry is relevant to the purpose; the information sought is not already within the Commissioner's possession; and the administrative steps required by the Code have been followed.

The undersigned hereby recommends that the Respondent, Leigh B. Allen, IV, be compelled to comply with the IRS Summons which was served on him on August 2, 2010, and further recommends that the Respondent be directed to appear before Kimberli Newcomb, Revenue Officer, Internal Revenue Service, at 9:00 a.m. on Monday, June 6, 2011, at 100 West Capitol Street, Room 506, Stop 19, A.H. McCoy Federal Building, Jackson, Mississippi 39269, for the purpose of complying with the IRS Summons. A copy of the IRS Summons is attached hereto as Exhibit A.

The undersigned further recommends that in the event that the Respondent fails to comply with the Court's Order and upon notice to the Court by the Petitioner of the Respondent's failure to comply, a bench warrant be issued by the Court; and the undersigned further recommends that a copy of the Court's Order and the attached Exhibit A be personally served on the Respondent by an official of the IRS within five (5) days of the date of issuance of the Order, and the IRS and/or the United States Attorney within twenty-four (24) hours from the date of the issuance of the Order cause a copy of the Order to be sent by certified mail to the Respondent.

RESPECTFULLY SUBMITTED, this the 29th day of April, 2011.


HONORABLE LINDA R. ANDERSON
UNITED STATES MAGISTRATE JUDGE